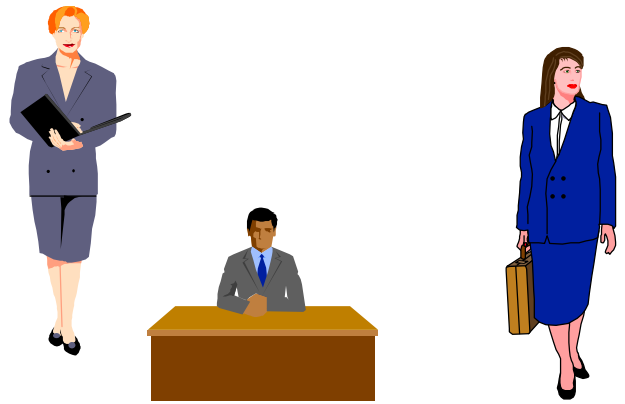


# Federal Supply Service

General Services Administration



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## **"TEMPORARY" NONPERSONAL ADMINISTRATIVE AND GENERAL SUPPORT SERVICES**

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### **BASIC ORDERING AGREEMENT**

Effective Date: March 31, 1997

Catalog No. BOA 0001

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***AN INNOVATIVE SOLUTION FOR  
"TEMPORARY" ADMINISTRATIVE SUPPORT  
SERVICES***

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**GSA** / **JWOD** Javits-Wagner-O'Day  
*In Partnership*

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## SCOPE OF SERVICES

This agreement has been issued under the direction of the General Services Administration, Federal Supply Service, General Products Center in coordination with the Committee for Purchase From People Who Are Blind or Severely Disabled. This agreement is pursuant to and meets the requirements of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48(c)) and the rules of the Committee for Purchase From People Who Are Blind or Severely Disabled (41 CFR Part 51). Orders or contracts issued under the scope of this agreement are considered to meet the requirements of FAR Part 8.7 and no agency need seek further competition, justification or comply with the synopsis requirements of FAR 16.703.

Associated nonprofit agencies, under the direction and guidance of National Industries for the Blind (NIB) and NISH, shall provide nonpersonal "temporary" administrative services including but not limited to, data entry/data base management, office automation services, clerical duties, filing, receptionist, mail distribution, duplicating machine operator and other unique support occupations as specified by the ordering agency needed to support their mission and as requested by the staff at the project location named by the ordering agency.

This BOA is issued by the General Products Center (GPC), located at Room 6A24, 819 Taylor Street, Ft. Worth, Texas 76102. NIB and NISH, who are the representatives for the associated nonprofit agencies as prescribed in 41 CFR Part 51, shall provide administrative support to the associated nonprofit agencies in accordance with same and are listed under the agreement for the purpose of single instrument identification and to provide a primary contact for Federal agencies. Although NIB and NISH have been designated the primary contacts in the agreement, the agreement itself is a written understanding and not a contract; the terms and conditions of this BOA only become effective upon incorporation into an order or contract issued hereunder and said terms and conditions will be binding upon the party named in the order or contract issued. All nonpersonal "temporary" administrative support services under this BOA shall be provided by the "associated nonprofit agencies".

### GEOGRAPHIC COVERAGE

This Basic Ordering Agreement (BOA) covers the 48 contiguous states, Alaska, Hawaii, and Washington, DC.

**NOTE: While this BOA covers the areas stated above, there may be instances where services cannot be provided to a particular site**

## REQUESTS FOR INFORMATION

Information concerning this program may be obtained from the following individuals:

### GENERAL SERVICES ADMINISTRATION

Jane Parman, Contracting Officer  
Telephone Number: (817) 978-2929  
FAX Number: (817) 978-4366  
Internet Address: Jane.Parman@GSA.GOV  
General Services Administration  
General Products Center  
819 Taylor Street, Room 6A24  
Ft. Worth, TX 76102-6114

### NATIONAL INDUSTRIES FOR THE BLIND

Kathy Kurtz  
Manager, Administrative Services  
Telephone Number: (703) 578-6515  
Toll Free Number: (800) 433-2304  
FAX Number: (703) 998-5416  
Internet Address: kkurtz@NIB.ORG  
National Industries for the Blind (NIB)  
1901 North Beauregard Street, Suite 200  
Alexandria VA 22311-1727

### NISH (Call the Regional Office Serving Your Area)

#### East Region

Curt Salter  
Telephone Number: (703) 849-6610  
FAX Number: (703) 849-8741  
Internet Address: cusalter@nish.org  
NISH East Regional Office  
PO Box 686  
223-C Gallows Road  
Dun Loring, VA 22027-9998

States Served: CT, DE, DC, ME, MD, MA, NH,  
NJ, NY, PA, RI, VT, VA, WV

#### South Region

Greg Braniff or Betty Clark  
Telephone Number: (770) 424-9093  
FAX Number: (770) 426-7666  
Internet Address: gbraniff@nish.org or  
bclark@nish.org  
NISH South Regional Office  
60 Chastain Center Boulevard, Suite 66  
Kennesaw, GA 30144

States Served: AL, FL, GA, KY, MS, NC, SC, TN

#### South/Central

Barry Howard  
Telephone Number: (817) 649-5419  
FAX Number: (817) 652-1032  
Internet Address: bhoward@nish.org  
NISH South/Central Region  
2701 Ave. E. East, Suite 402  
Arlington, TX 76011

States Served: AR, CO, KS, LA, MO, NM, OK, TX

#### North/Central

Anna Tokarev  
Telephone Number: (847) 699-8890  
FAX Number: (847) 699-0392  
Internet Address: atokarev@nish.org  
NISH North/Central Regional Office  
1400 East Touhy Avenue, Suite 140  
Des Plaines, IL 60018

States Served: IL, IN, IA, MI, MN, OH, WI

#### Northwest

Rick Van Hoose  
Telephone Number: (206) 285-6160  
FAX Number: (206) 285-8558  
Internet Address: rvanhoose@nish.org  
NISH Northwest Regional Office  
200 West Mercer, Suite E 103  
Seattle, WA 98119

States Served: AK, ID, MT, NB, ND, OR, SD, WA, WY

#### West

NISH West BOA Coordinator  
Telephone Number: (510) 417-6880  
FAX Number: (510) 417-6888  
Internet Address: tcunha@nish.org  
NISH West Regional Office  
4615 First Street, Suite 100  
Pleasanton, CA 94566

States Served: AZ, CA, HI, NV, UT

## GSA ASSISTANCE

### Contracting officer mailing address:

GENERAL SERVICES ADMINISTRATION  
GENERAL PRODUCTS CENTER  
CONTRACTING OFFICER (7FXIC-X5)  
819 Taylor Street, Room 6A24  
Fort Worth, Texas 76102-6114  
Telephone: (817) 978-2929

### For additional copies of this catalog or to be placed on the mailing list, write or call:

GENERAL SERVICES ADMINISTRATION  
CENTRALIZED MAILING LIST SERVICES (7CPNL)  
4900 HEMPHILL STREET  
WAREHOUSE 4, DOCK 1  
P. O. BOX 6477  
FORT WORTH, TX 76115

TELEPHONE (817) 334-5215  
FAX NUMBER (817) 334-5227  
INTERNET ADDRESS: CMLS.GSA@GSA.GOV

CATALOG NO. BOA 0001

## ORDERING INSTRUCTIONS

### BARGAINING UNITS/UNIONS

The provisions of this BOA do not usurp the merit promotion procedures or any other regulations, policy or union agreements.

Federal Agencies wishing to issue orders under this BOA should contact their personnel office or other, as appropriate, to ensure they are compliant with all policy, regulations, or union agreements that may be in place.

### INTERVIEWS PRIOR TO ORDER/CONTRACT ISSUANCE

Agencies shall contact the associated nonprofit agency in their local commuting area to discuss the availability and capability of its candidates. The nonprofit agency will interview and provide qualified candidates to the Agency prior to issuance of any order or contract.

### PRICING

Fair Market Prices under this agreement are comprised of the hourly wage rate for each occupation as specified by the Department of Labor for the service location plus fringes, taxes, workers compensation unemployment insurance and administrative fees. The Committee for Purchase From People Who Are Blind or Severely Disabled pursuant to the JWOD ACT is responsible for establishing the pricing.

## SPECIAL INSTRUCTIONS

- (1) Any services to be furnished under this contract shall be ordered by issuance of orders or contracts to the associated nonprofit agency providing the service.
- (2) Funds are to be obligated by each order.
- (3) Each order or contract shall incorporate this BOA.
- (4) Orders shall not be issued until a candidate has been selected to perform the service desired.
- (5) Each order shall reference the Classification(s) being ordered and unless a Performance Work Statement (PWS) is attached, the duties to be performed shall be deemed to be those as described in the Service Contract Act Directory of Occupations.

## ORDERS ISSUED BY GSA

This BOA has been established to allow agencies to issue orders for requirements; however, GSA will, upon request, handle issuance of orders. An additional fee is applicable when GSA handles the placing of orders for Government agencies. The additional fee is not reflected in the pricing established under this BOA and will be added by GSA.

## ORDER/CONTRACT ACKNOWLEDGMENT

- (1) All orders and contracts are subject to the terms and conditions of this BOA. In the event of conflict between an order or contract and this agreement, the agreement shall control.
- (2) If mailed, an order or contract is considered "issued" when the Government deposits the order or contract in the mail. Orders may be issued orally, by facsimile, or electronic commerce methods if authorized.
- (3) The associated nonprofit agency has 7 days after receipt of the order to accept or reject.

## ORDER LIMITATIONS

- (1) Minimum order. When the Government requires services covered by this contract in an amount of less than 90 days, the Government is not obligated to purchase, nor is the associated nonprofit agency obligated to furnish, those services under the contract. The associated nonprofit agency and the Government are free to negotiate a lesser timeframe as is agreeable between the parties.
- (2) Maximum order. The associated nonprofit agencies are not obligated to honor—
  - (a) Any order for "temporary" support services in excess of 5 years;
  - (b) Any order for a combination of support services in excess of 5 years;

**NOTE: Agencies may fund and extend services on an annual basis, see Option to Extend Services Clause.**

## NONMANDATORY STATUS

This agreement is for nonpersonal "temporary" Administrative and General Support Services. The Government is not required to order any services from the associated nonprofit agencies.

## NAME OF PARTY FOR ORDERS AND DISTRIBUTION

Purchase orders or contracts shall be issued in the name of the associated nonprofit agency who is the responsible party under any order/contract issued. However, a copy only of the purchase order or contract shall be forwarded to NIB or the appropriate NISH Regional Office specified on Page 2. An original signed purchase order or contract forwarded to the associated nonprofit agency providing the service.

All payments for services rendered shall be remitted to the address specified by the associated nonprofit agency providing the service.

**PLEASE NOTE:** All orders or contracts placed by an agency are to be paid by the individual agency placing the order. Each delivery order or contract will cite the appropriate agency payment address, and proper invoices should be sent to that address. Proper invoices should be sent to GSA only for orders placed by GSA. Any other agency's invoices sent to GSA will only delay payment.

## ORDER OF ASSOCIATED NONPROFIT AGENCY SELECTION

Nonprofit agencies serving people who are blind and nonprofit agencies employing people with other severe disabilities have equal priority for services under the JWOD Program. At the discretion of the Government agency, either NIB or NISH may be contacted, not simultaneously, as specified in the BOA for designation of a local associated nonprofit agency to provide the service. In the event the first selected nonprofit agency is unable to fill the requirement, the requirement shall be referred to the other for fulfillment if acceptable to the Federal agency.

## COPIES OF INVOICES

If more than one copy of the invoice is required, clarify on purchase orders the number of invoices needed.

## ELECTRONIC DATA INTERCHANGE (EDI)

In accordance with the Instructions to Associated Nonprofit Agency Section of this agreement, the associated nonprofit agency elects to receive orders placed by GSA's Federal Supply Service (FSS) or authorized ordering agencies by either ( ) facsimile transmission or ( ) computer-to-computer Electronic Data Interchange (EDI). Associated nonprofit agencies shall indicate the method for receipt of orders. At a minimum information as indicated below shall be provided:

1) An associated nonprofit agency electing to receive computer-to-computer EDI is requested to so indicate this to any agency or activity and to provide the name, address, and telephone number of the representative to be contacted regarding establishment of an EDI interface.

2) An associated nonprofit agency electing to receive orders by facsimile transmission is requested to provide the telephone number(s) for facsimile transmission equipment where orders should be forwarded by the agency or activity issuing the order.

## ORDER CHECKLIST

- \_\_\_1. Classification and Occupational Code are indicated.
- \_\_\_2. Funding codes are reflected.
- \_\_\_3. The order/contract incorporates the terms and conditions of the BOA.
- \_\_\_4. Hours ordered are reflected.
- \_\_\_5. The nonprofit agency remittance address is included.
- \_\_\_6. Number of invoice copies has been specified.
- \_\_\_7. The Wage Determination Number, Revision Number and date are specified.
- \_\_\_8. Place of Performance is indicated.
- \_\_\_9. The Government Client Representative (and alternate, if applicable) has been specified.
- \_\_\_10. A copy is indicated for NIB or NISH as applicable.
- \_\_\_11. Include start date for services.
- \_\_\_12. Indicate whether position is full-time or part-time.
- \_\_\_13. Indicate if EDI or EFT is applicable.
- \_\_\_14. Include applicable Wage Determination.

**A sample order is included on Page 18.**

# TERMS AND CONDITIONS APPLICABLE TO ORDERS/CONTRACTS ISSUED

## SCOPE OF CONTRACT

This Basic Ordering Agreement (BOA) has been established to aid agencies in obtaining temporary administrative and general services. Agencies and activities listed below may issue contracts or purchase orders for temporary services and incorporate the terms of this BOA on an "as needed" basis. This BOA covers the 48 contiguous states, Alaska, Hawaii and Washington, DC.

"All Federal agencies and activities in the executive, legislative, and judicial branches as well as other activities and organizations authorized by statute or regulation to use GSA as a source of supply."

(Questions regarding activities authorized to use this schedule should be directed to the Contracting Officer.)

Services ordered from NIB and NISH may be ordered for a period of not less than 90 days, unless a lesser time is agreed to by the associated nonprofit agency, and no more than 5 years unless a greater time is agreed to by the associated nonprofit agency.

For orders/contracts received from activities within the Executive Branch of the Government, each associated nonprofit agency is obligated to deliver all services contracted for that may be ordered during the order/contract term, except as otherwise provided herein.

The associated nonprofit agencies are not obligated to accept orders received from any agency or activity. If the associated nonprofit agency is unwilling to accept such an order/contract, the associated nonprofit agency shall return it by mailing it or delivering it to the ordering office within 7 days from receipt. Failure to return an order shall constitute acceptance whereupon all provisions of the order/contract shall apply.

## PERFORMANCE WORK STATEMENTS

Job descriptions listed in the Service Contract Act Directory of Occupations will become the Performance Work Statement for any orders/contracts issued hereunder. If the individual ordering agency so desires they may specify requirements or functions (specific job titles, tasks or details) for the service desired as long as any requirements or functions are within the scope of the general descriptions provided in the Service Contract Act Directory of Occupations published by the Department of Labor, of Government requirements. NIB and NISH will assist the ordering agency and the designated associated nonprofit agency in defining the Performance Work Statement, titles and descriptions.

## PLACE OF PERFORMANCE

Work is to be performed on-site at the address/location listed in the individual orders or contracts.

## SECURITY

It is not anticipated that Security clearances will be necessary for any order or contract issued which incorporates this BOA. However, a contractor identification badge must be worn during duty at the facility.

In the event a Security Clearance is required, the Government will be responsible for conducting such background checks as is deemed necessary.

## HOURS OF WORK

All work shall be performed at the site designated by the individual ordering agencies for the days of Sunday through Saturday excluding Government Holidays.

## PRIVACY ACT

In the event that the contractor personnel are exposed to data that is subject to the Privacy Act of 1974; they will be required to take appropriate action to prevent disclosure of this information. It is not anticipated that the contractor personnel will be exposed to this information.

## ACCEPTANCE OF SERVICES PROVIDED

The Client Representative will accept or reject work on a monthly basis, based upon the performance of the individual(s) with respect to specific tasks required unless unsatisfactory performance is detected earlier. Notification of unsatisfactory performance will be directed to the contractor's Program Manager responsible for supervision and performance. Notification shall be made as soon as practicable. In the event unsatisfactory performance continues or the tasks assigned are determined to not be suitable for the individual assigned, a substitute may be requested by either party. If a substitute is not available the order/contract or that part of the order/contract will be cancelled at no cost to either party. The ordering agency may fill their needs from other sources as is deemed appropriate.

Only the designated Client Representative (CR) or alternate has the authority to inspect, accept or reject performance tasks. The contractor shall at the end of the month submit the Certification and Acceptance of Performance, page 17 of this document, to the CR or alternate for acceptance or rejection. Copies of the timecards shall also be provided to the ordering agencies at the time the Certification of Acceptance of Performance certification is presented. Ordering agencies may require weekly submittal of timecards for tracking purposes. Associated nonprofit agencies may only bill for HOURS ACTUALLY WORKED. Separate billings for vacation or holiday are not permitted since same is inclusive within the hourly rate.

Each agency shall specify in the order or contract issued the name, phone number, and address of the designated CR and alternate.

## PROGRAM MANAGER

The associated nonprofit agency shall assign a Program Manager and alternate who will be responsible for all supervision of individuals assigned to perform tasks under orders or contracts issued hereunder. Each associated nonprofit agency shall specify in writing within 24 hours after receipt of an order or contract the name, phone number and address of the designated Program Manager and alternate.

## REMITTANCE (PAYMENT) ADDRESS

The associated nonprofit agency shall provide to agencies or activities issuing orders or contracts the payment address to which Government checks should be mailed for payment of proper invoices submitted under any resultant order or contract.

All associated nonprofit agencies are cautioned that if the remittance (payment) address shown on an actual invoice differs from that provided to the ordering agency, the remittance address(es) provided to the ordering agency will govern. Payment to any other address will require an administrative change to the contract or order issued.

## ELECTRONIC FUNDS TRANSFER PAYMENT METHODS

In the event that payments will be made by the Government by electronic funds transfer (through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH), the associated nonprofit agency shall designate a financial institution for receipt of electronic funds transfer payments, and shall submit this designation to the Contracting Officer or other Government official, as directed.

- (a) For payment through FEDLINE, the associated nonprofit agency shall provide the following information:
- (1) Name, address, and telegraphic abbreviation of the financial institution receiving payment.
  - (2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System.
  - (3) Payee's account number at the financial institution where funds are to be transferred.
  - (4) If the financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

- (b) For payment through ACH, the Contractor shall provide the following information:
- (1) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for FEDLINE).
  - (2) Number of account to which funds are to be deposited.
  - (3) Type of depositor account ("C" for checking, "S" for savings).
  - (4) If the associated nonprofit agency is a new enrollee to the ACH system, a "Payment Information Form," SF 3881, must be completed before payment can be processed.
- (c) In the event the associated nonprofit agency during the performance of this contract, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.
- (d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the associated nonprofit agency official authorized to provide it, as well as the agency's name and order/contract number.
- (e) Failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

## PAYMENT BY CREDIT CARD (DEC 1989)

- (a) Definitions. "Government commercial credit card" means the uniquely numbered credit card issued by the Contractor under single award schedule, Federal Supply Schedule IG 615, Governmentwide Commercial Credit Card Service, to named individual Government employees to pay for official Government purchases. "Oral delivery order" means an order placed orally either in person or by telephone, which is paid for by Government commercial credit card.
- (b) At the option of the Government and if agreeable to the Contractor, payments of \$25,000 or less for oral or written delivery orders may be made using the Government commercial credit card.
- (c) The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased supplies have been shipped or services performed. Unless the cardholder requests correction or replacement of a defective or faulty item in accordance with other contract requirements, the Contractor shall immediately credit a cardholder's account for items returned as defective or faulty.

**NOTICE: The decision to accept the Government Credit Card as a method of payment is at the sole discretion of the individual Nonprofit Agencies. Oral purchase/delivery orders must be confirmed in writing prior to commencement of work.**

## GOVERNMENT FURNISHED RESOURCES

The Government will furnish work space and access to equipment as is deemed appropriate for the work to be performed on site. Government telephones are available for official use only.

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the associated nonprofit agency shall be liable for the cost, which may be deducted from the contract price.

## LIABILITY FOR PERSONAL INJURY OR DEATH

(a) The associated nonprofit agencies assume responsibility for all damage or injury to persons occasioned through the use, maintenance, and operation of the vehicles or other equipment by, or the action of, the associated nonprofit agency or the associated nonprofit agencies employees and agents.

(b) The associated nonprofit agency, at their expense, shall maintain adequate public liability and property damage insurance during the continuance of this contract, insuring the associated nonprofit agency against all claims for injury or damage. (c) The associated nonprofit agency shall maintain Worker's Compensation and other legally required insurance with respect to the Associated nonprofit agency's own employees and agents.

(d) The Government shall in no event be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, or operation of any vehicle or other equipment by, or the action of, the associated nonprofit agency or the associated nonprofit agency employees and agents in performing under this contract, and the Government shall be indemnified and saved harmless against claims for damage or injury in such cases.

(e) The general liability policy shall name "the United States of America, acting by and through the General Services Administration," as an additional insured with respect to operations performed under this agreement.

(f) Bodily injury limits contained in the worker's compensation insurance shall be sufficient to properly indemnify the Government against any claims that may be generated as a result of accident or injury.

**IMPORTANT NOTICE TO ASSOCIATED NONPROFIT AGENCIES:** The associated nonprofit agencies are required to insure that the classification of operations are properly coded in their worker's compensation policy.

## WORKMEN'S COMPENSATION LAWS

The Act of June 25, 1936, 49 Stat. 1938 (40 U.S.C. 290) authorizes the constituted authority of the several States to apply their Workmen's Compensation laws to all lands and premises owned or held by the United States.

## LIABILITY OF THE ASSOCIATED NONPROFIT AGENCIES

(a) Hold Harmless and Indemnification Agreement: The associated nonprofit agencies shall save and hold harmless and indemnify the Government against any and all liability, claims, and costs of whatsoever kind and nature for injury to or death of any person or persons and for the loss or damage to any property occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operations or performance of work under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of the associated nonprofit agency, any sub-contractor, or any employee, agent, or representative of the associated nonprofit agency or sub-contractor.

(b) Damage to Government Property From Causes Other Than Associated nonprofit agency's Negligence:

Nothing in the above paragraphs shall be considered to preclude the Government from receiving the benefits of any insurance the associated nonprofit agency may carry which provides for indemnification for any loss or destruction of, or damage to property in the custody and care of the associated nonprofit agency where such loss, destruction, or damage is to Government property. The associated nonprofit agency shall do nothing to prejudice the Government's right to recover against third parties for any loss, destruction of, or damage to Government property arising out of the associated nonprofit agencies operation under this contract and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

## NONPROFIT AGENCY FURNISHED RESOURCES

The associated nonprofit agency will furnish any special administrative or other equipment and supplies determined necessary to accommodate the unique needs of such individuals. The Federal agency is still required to provide that equipment and/or supplies necessary for execution of the position if special needs of the individual were not a consideration.



## INFORMATION SOURCES

Agency personnel at the performance site or as otherwise designated by the ordering agency will be available for technical exchanges and clarification of the scope of work, deliverables and performance criteria for tasks. Agency personnel will not supervise nor exercise control over the associated nonprofit agency employees. Work to be performed is as described in the Performance Work Statements included in each order or contract issued hereunder. Guidelines to be followed by agency personnel to avoid associated nonprofit agency employee(s) from providing (or the appearance of providing) personal services are attached.

## PLACEMENT OF SERVICES ON THE PROCUREMENT LIST

In the event it is determined that long term administrative or general support services are needed, the ordering agency should contact the associated nonprofit agency and request addition to the Procurement List.

## DISPUTES

Disputes between a contracting activity and an associated nonprofit agency should be resolved, where possible, by the contracting activity and the associated nonprofit agency, with assistance from the appropriate Central Nonprofit Agency, NIB or NISH. Disputes which cannot be resolved by these parties shall be referred to the Committee for Purchase From People Who Are Blind or Severely Disabled, with concurrent notification to the GSA Contracting Officer, for resolution.

## ADMINISTRATIVE CONTRACT TERMS AND CONDITIONS

(a) Assignment. The associated nonprofit agency or NIB or NISH or its assignee's rights to be paid amounts due as a result of performance of this contract, may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727).

(b) Changes. Changes in the terms and conditions of this agreement may be made only by written agreement of the parties.

(c) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(d) Invoice. The associated nonprofit agencies shall submit an original invoice and three copies (or electronic invoice, if authorized,) to the address designated in the order or contract to receive invoices. An invoice must include:

(1) Name and address of the associated nonprofit agency;

(2) Invoice date;

(3) Contract number, contract line item number and, if applicable, the order number;

(4) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(6) Terms of any prompt payment discount offered;

(7) Name and address of official to whom payment is to be sent; and

(8) Name, title, and phone number of person to be notified in event of defective invoice.

(e) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment.

(f) Payment. Payment shall be made for services accepted via Attachment A, Certification and Acceptance of Performance by the Government. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Payments under this contract may be made by the Government either by check, electronic funds transfer, or the Automated Clearing House, at the option of the Government.

In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

(g) Taxes. The order or contract price includes all applicable Federal, State, and local taxes and duties.

(h) Other compliances. The associated nonprofit agency shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(i) Compliance with laws unique to Government contracts. The associated nonprofit agency agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 251 related to whistle blower protections; and 49 U.S.C. 40118, Fly American.

(j) Order of precedence. Any inconsistencies in this BOA or order or contract issued shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) any license agreements for computer software; (4) BOA provisions included herein; (5) other paragraphs of this clause; (6) other documents, exhibits, and attachments; and or (7) the performance work statements.

## OPTION TO EXTEND SERVICES -

The Government may require continued performance of any services. The Government has the right to fund and extend services in one year increments. If services are to be extended, the Contracting Officer should issue a modification exercising the option to extend services no later than 10 days prior to the end of the period or no later than the end of the period in effect. The Client Representative, if applicable, will notify the Contracting Officer within 20 days prior to the expiration of the period in effect whether or not the services are to be extended.

## CANCELLATION

Any order/contract issued under the auspices of the BOA may be canceled in whole or in part by either party upon 30 calendar days written notice. Such action will be without liability to either party.

### 52.204-4 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (MAY 1995)

(a) In accordance with Executive Order 12873, dated October 20, 1993, the Offeror/Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20% postconsumer material.

(b) The 20% standard applies to high-speed copier paper, offset paper, forms bond, computer printout paper, and carbonless paper. A higher standard of 50% recovered material, with 20% postconsumer material, applies to other uncoated printing and writing papers such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative standard for either of the standards specified in this clause is 50% recovered material content of certain industrial by-products.

### 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)

(a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

"Contractor," as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor.

(b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in subpart C of 29 CFR Part 4.

(c) Compensation. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), so as to provide a reasonable relationship

(i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the

Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraphs (b)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under the contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29

CFR 4.1b(b) apply or unless the Secretary of Labor or authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. 53 Comp. Gen. 401 (1973). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) Safe and Sanitary Working Conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of the service employee. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records. (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act—  
(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor will permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semimonthly.

(k) Withholding of Payments and Termination of Contract. The Contracting Officer shall withhold or cause to be withheld from the Government prime Contractor under this or any other Government contract with the prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may either enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) Collective Bargaining Agreements Applicable to Service Employees. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the

contract is being performed, the Government prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) Seniority List. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent prime Contractor shall furnish to the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) Ruling and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) Contractor's Certification. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered

workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section

2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981.

To use this provision;

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit;

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

## 52.222-44 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT—PRICE ADJUSTMENT (MAY 1989)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to Contractor collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The contract price or contract unit price labor rates will be adjusted to reflect increases or decreases by the Contractor in wages and fringe benefits to the extent that these increases or decreases are made to comply with—

(1) An increased or decreased wage determination applied to this contract by operation of law; or

(2) An amendment to the Fair Labor Standards Act of 1938 that is enacted subsequent to award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(d) Any such adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (b) of this clause, and to the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance; it shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(e) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after the effective date of the wage change, unless this period is extended by the Contracting Officer in writing. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price of contract unit price labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(f) The Contracting Officer or an authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor.

# GUIDE FOR AVOIDING PERSONAL SERVICES

Some of the elements that separate a personal services contract from a nonpersonal services contract are; performance is on-site, the principal tools and equipment are furnished by the Government, and the service is applied directly to the integral effort of the agency or organizational subpart in furtherance of assigned function or mission. These circumstances equate to three of the six descriptive elements cited at FAR Part 37.104(c)(2), which are to be used as a guide in assessing whether or not a proposed contract is personal in nature. Any agency which contracts for labor-intensive services, must be very careful to avoid contractors providing (or appearing to provide) personal services. As stated in the FAR Part 37.104(c)(2):....."the key question always being: Will the Government exercise relatively continuous supervision and control over the contractor personnel performing the contract?" To counter these circumstances and preserve the non personal nature of the contract, Government adherence to the following guidelines is required:

1. Do not attempt to supervise a contractor employee.
2. Refrain from discussing issues such as skill levels and hours, salaries, cost and funding data, or administrative and personnel matters affecting contractor employees with the contractor. Ensure close communication/coordination with the management/employer of the personnel performing services. Report problems as they occur (not waiting for scheduled meetings).
3. Do not attempt to interview, discuss performance, approve leave or work scheduling, terminate, assist service personnel in doing their jobs or obtain assistance from the service personnel in doing a Government job.
4. Do not assign Government personnel to work under service personnel direction.
5. Clearly define the scope of work, deliverables, and performance criteria for product/tasks required.
6. Maintain a professional distance from the service personnel.
7. If appropriate, provide a separate location for service personnel, put partitions around the work area, and display a sign showing the name of the entity to whom you have contracted. Provide service personnel with badges, if appropriate, identifying them as nonpersonal service personnel.
8. Ensure proper communications with the service personnel (technical discussion and surveillance is okay, but the Government cannot tell the service personnel how to do a job).

9. Assign a primary client representative to any order or contract issued. Other representatives should only be alternates or in subsidiary roles.

## Excerpt from the Federal Acquisition Regulation (FAR), Part 37

### 37.101 Definitions.

"Nonpersonal services contract" means a contract under which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

"Personal services contract" means a contract that by its express terms or as administered, makes the contractor personnel appear, in effect, Government employees (see 37.104).

"Service contract" means a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply. A service contract may be either a nonpersonal or personal contract. It can also cover services performed by either professional or nonprofessional personnel whether on an individual or organizational basis. Some of the areas in which service contracts are found include the following:

- (a) Maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment.
- (b) Routing recurring maintenance of real property.
- (c) Housekeeping and base services
- (d) Advisory and assistance services.
- (e) Operation of Government-owned equipment, facilities, and systems.
- (f) Communications services.
- (g) Architect-Engineering (see Subpart 36.6).
- (h) Transportation and related services (see Part 47).
- (i) Research and development (see Part 35).

### 37.102 Policy.

- (a) Agencies shall generally rely on the private sector for commercial services (see OMB Circular No. A-76, Policies for Acquiring Commercial or Industrial Products and Services needed by the Government).
- (b) In no event may a contract be awarded for the performance of an inherently governmental function.

(c) The relative cost of Government and contract performance require appropriate consideration when Government performance is practicable (see Subpart 7.3).

(d) Nonpersonal service contracts are proper under general contracting authority.

#### 37.103 Contracting officer responsibility.

(a) The contracting officer is responsible for ensuring that a proposed contract for services is proper. For this purpose the contracting officer shall;

(1) Determine whether the proposed service is for a personal or nonpersonal services contract using the definitions in 37.101 and the guidelines in 37.104;

(2) In doubtful cases, obtain the review of legal counsel; and

(3) Document the file (except as provided in paragraph (b) below) with (i) the opinion of legal counsel, if any, (ii) a memorandum of the facts and rationale supporting the conclusion that the contract does not violate the provisions in 37.104(b) and (iii) any further documentation that the contracting agency may require.

(b) Nonpersonal services contracts are exempt from the requirements of subparagraph (a)(3) above.

#### 37.104 Personal Services

(a) As indicated in 37.101, a personal services contract is characterized by the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract.

(b) Agencies shall not award personal services contracts unless specifically authorized by statute (e.g. 5 U.S.C. 3109) to do so.

(c)(1) An employer-employee relationship under a service contract occurs when, as a result of (i) the contract's terms or (ii) the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee. However, giving an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that converts an individual who is an independent contractor (such as a contractor employee) into a Government employee.

(2) Each contract arrangement must be judged in the light of its own facts and circumstances, the key question always being: Will the government exercise relatively continuous supervision and control over the contractor

personnel performing the contract? The sporadic, unauthorized supervision of only one of a large number of contractor employees might reasonable be considered not relevant, while relatively continuous Government supervision of a substantial number of contractor employees would have to be taken strongly into account (see (d) below).

(d) The following descriptive elements should be used as a guide in assessing whether or not a proposed contract is personal in nature:

(1) Performance on site.

(2) Principal tools and equipment furnished by the Government.

(3) Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.

(4) Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.

(5) The need for the type of service provided can reasonably be expected to last beyond one year.

(6) The inherent nature of the service, or the manner in which it is provided reasonably requires directly or indirectly, Government direction or supervision of contractor employees in order to -

(i) Adequately protect the Government's interest;

(ii) Retain control of the functions involved; or

(iii) Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee.

(e) When specific statutory authority for a personal service contract is cited, obtain the review and opinion of legal counsel

(f) Personal services contracts for the services of individual experts or consultants are limited by the Classification Act. In addition, the Officer of Personnel Management has established requirements which apply in acquiring the personal services of experts or consultants in this manner (e.g., benefits, taxes, conflicts of interest). Therefore the contracting officer shall effect necessary coordination with the cognizant civilian personnel office.

# SUPPLIES AND/OR SERVICES

## SCHEDULE OF "TEMPORARY" SERVICES

ITEM NO.	DESCRIPTION
*0001	*NONPERSONAL "TEMPORARY" ADMINISTRATIVE AND GENERAL SUPPORT SERVICES

**\*SUBCLINS MAY BE ESTABLISHED AS  
DEEMED NECESSARY, I.E. 0001AA, 0001AB,  
ETC.**

**Listing of Occupational Classifications (for  
additional classifications that may be available  
please contact NIB, NISH or the GSA Contracting  
Officer) are as follows:**

Accounting Clerk I	01011
Accounting Clerk II	01012
Accounting Clerk III	01013
Accounting Clerk IV	01014
Court Reporter	01030
Dispatcher, Motor Veh.	01050
Document Prep Clerk	01060
Duplicating Mach. Oper.	01090
Film/Tape Librarian	01110
General Clerk I	01115
General Clerk II	01116
General Clerk III	01117
General Clerk IV	01118
Housing Referral Asst.	01120
Key Entry Operator I	01131
Key Entry Operator II	01132
Order Clerk I	01191
Order Clerk II	01192
Order Filler	01220
Personnel Asst (Empl-I)	01261
Personnel Asst (Empl-II)	01262
Personnel Asst (Empl-III)	01263
Personnel Asst (Empl-IV)	01264
Production Control Clerk	01270
Rental Clerk	01290
Scheduler, Maintenance	01300
Secretary I	01311
Secretary II	01312
Secretary III	01313
Secretary IV	01314
Secretary V	01315
Svc. Order Dispatcher	01320
Stenographer I	01341
Stenographer II	01342
Supply Technician	01400
Survey Worker	01420
Switchboard Oper-Rec	01460
Test Examiner	01510
Test Proctor	01520
Travel Clerk I	01531
Travel Clerk II	01532
Travel Clerk III	01533
Word Processor I	01611

Word Processor II	01612
Word Processor III	01613
Computer Data Librarian	03010
Computer Operator I	03041
Computer Operator II	03042
Computer Operator III	03043
Computer Operator IV	03044
Computer Operator V	03045
Computer Programmer I	03071
Computer Programmer II	03072
Computer Programmer III	03073
Computer Programmer IV	03074
Computer Systems Analyst I	03101
Computer Systems Analyst II	03102
Computer Systems Analyst III	03103
Peripheral Equipment Operator	03160
*Cleaner, Vehicles	11030
*Elevator Operator	11060
*Gardener	11090
*Housekeeping Aide I	11121
*Housekeeping Aide II	11122
*Janitor	11150
*Laborer	11180
*Laborer, Grounds Maint	11210
*Maid or Houseman	11240
*Pest Controller	11270
*Refuse Collector	11300
*Tractor Operator	11330
*Window Cleaner	11360

### NOTES:.

- Unless otherwise indicated by the Ordering Agency, the duties of employees under job titles listed are those described in the Service Contract Act Directory of Occupations, incorporated by reference.
- Agencies are required to include the Wage Determination applicable into any resultant order/contract. The Wage Determination can be obtained from the GSA Contracting Officer, point of contact at NIB or NISH if not available through normal agency channels.
- **GOVERNMENT-OWNED VEHICLES** - Since the above occupations do not include operation of a Government-Owned vehicle, in the event such services are required, the ordering agency is authorized to incorporate appropriate vehicular and general public liability insurance and vehicular safety provisions. The GSA Contracting Officer may be contacted for assistance. Costs for this additional requirement will be negotiated between the nonprofit agency and the ordering agency.

\*Limited to one to two positions at any one site unless NIB or NISH approval obtained.



## PARTIES LISTED UNDER THE AGREEMENT

BOA INSTRUMENT IDENTIFICATION NUMBERS ARE REFLECTED FOR NIB AND NISH AS FOLLOWS (These instrument identification numbers shall be referenced by any authorized user issuing an order/contract hereunder:

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**NIB**  
1901 North Beauregard Street Suite 200  
Alexandria, VA 22311-1727

**GS07FNIBTS**

**NISH**  
2235 Cedar Lane  
Vienna, VA 22182-5200

**GS07FNISHT**

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NOTE: PURCHASE ORDERS OR CONTRACTS SHALL BE ISSUED IN THE NAME OF THE ASSOCIATED NONPROFIT AGENCY WHO IS THE RESPONSIBLE PARTY UNDER ANY ORDER/CONTRACT ISSUED. A COPY ONLY OF THE PURCHASE ORDER OR CONTRACT SHALL BE FORWARDED TO NIB OR THE APPROPRIATE NISH REGIONAL OFFICE SPECIFIED ON PAGE 2.

ALL PAYMENTS FOR SERVICES RENDERED SHALL BE REMITTED TO THE ADDRESS SPECIFIED BY THE ASSOCIATED NONPROFIT AGENCY PROVIDING THE SERVICE.

# CERTIFICATION AND ACCEPTANCE OF PERFORMANCE BY THE GOVERNMENT

**HOURS BEING BILLED:**\_\_\_\_\_

(Associated Nonprofit Agencies may only Bill for Hours Actually Worked)

**AVAILABLE HOURS IN PERIOD OF PERFORMANCE:**\_\_\_\_\_

(Exclusive of Vacation and Holiday)

**PERIOD OF PERFORMANCE:**\_\_\_\_\_

**CLIENT:**\_\_\_\_\_

**LOCATION:**\_\_\_\_\_

**CONTRACT/ORDER NO.:**\_\_\_\_\_

## CLIENT AGENCY CERTIFICATION

**I CERTIFY THAT SERVICE WAS SATISFACTORY AND/OR SATISFACTORY  
PROGRESS WAS MADE ON TASK(S) REQUIREMENTS DURING THE REPORTING  
PERIOD. HOURS BEING BILLED ARE CORRECT.**

**SIGNATURE:**

\_\_\_\_\_  
**CLIENT REPRESENTATIVE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**PRINT NAME**

# SAMPLE ORDER

ORDER FOR SUPPLIES AND SERVICES					IMPORTANT: See Instructions in GSAR 553.370- 300-1 for distribution.		PAGE 1		OF PAGES 1	
1. DATE OF ORDER  Mar 26 1997		2. ORDER NUMBER  XXX-XX-XXXX		3. CONTRACT NUMBER  GS07F (NISHT) or NIBTS)		4. ACT NUMBER				
FOR GOVERNMENT USE ONLY	5. ACCOUNTING CLASSIFICATION					6. FINANCE DIVISION				
	FUND	ORG CODE	B/A CODE	O/C CODE	AC	SS	VENDOR NUMBER			
	FUNC CODE	C/E CODE	PROJ./PROS.NO.	CC-A	MDL	FI	G/L DEBIT			
	W/ITEM	CC-B	PRT/CRFT		AI	LC	DISCOUNT			
7. TO: CONTRACTOR (Name, address and zip code)						8. TYPE OF ORDER				
Nonprofit Agency Name, Address, and Point of Contact						<input checked="" type="checkbox"/> A. PURCHASE Please furnish the following on the terms specified on both sides of the order and the attached sheets, if any, including delivery as indicated.				
						<input type="checkbox"/> B. DELIVERY This delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above numbered contract.				
						C. MODIFICATION NO.				
						AUTHORITY FOR ISSUING				
9A. EMPLOYER'S IDENTIFICATION NUMBER				9B. CHECK, IF APPROP. WITHHOLD 20%		Except as provided herein, all terms and conditions of the original order, as heretofore modified, remain unchanged.				
10A. CLASSIFICATION <input checked="" type="checkbox"/> A. SMALL BUSINESS		<input type="checkbox"/> B. OTHER THAN SMALL BUSINESS		<input type="checkbox"/> C. SMALL DISADVANTAGED		<input type="checkbox"/> D. SMALL WOMEN-OWNED		10B. TYPE OF BUSINESS ORGANIZATION <input checked="" type="checkbox"/> A. CORPORATION <input type="checkbox"/> B. PARTNERSHIP <input type="checkbox"/> C. SOLE PROPRIETOR		
11. ISSUING OFFICE (Address, Zip code and telephone no.)  Address of Issuing Office			12. REMITTANCE ADDRESS (MANDATORY)  Remittance Address of Nonprofit Agency			13. SHIP TO (Consignee address, zip code and telephone number)  Enter Place of Performance				
14. PLACE OF INSPECTION AND ACCEPTANCE				15. REQUISITION OFFICE (Name, symbol and telephone no.)						
1. F.O.B. POINT			17. GOVERNMENT B/L NO.		18. DELIVERY F.O.B. POINT ON OR BEFORE			19. PAYMENT/DISCOUNT TERMS  Net 30		
20 SCHEDULE										
ITEM NO. (A)	SUPPLIES OR SERVICES (B)				QTY ORDERED (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)		
0001	Secretary I - Full Time Occupational Code 01311 Start Date: March 24, 1997  Wage Determination #94-XXX, Rev 2, dated 03/29/1995  This order incorporates the terms and conditions of BOA #GS07F(NISHT) or (NIBTS)  DISTRIBUTION: FINANCE, NIB OR NISH, CLIENT REPRESENTATIVE, CONTRACTOR, ACO, FUNDING OFFICE				240	HRS	\$10.00	\$2,400	00	
21. RECEIVING OFFICE (Name, symbol and telephone no.)							TOTAL FROM 300-A(s)			
22. SHIPPING POINT				23. GROSS SHIP WT.			GRAND TOTAL		\$2,400	00
24. MAIL INVOICE TO: (Include zip code) General Services Administration (FUND)  Name of Office Where Invoices are to be Submitted.				25A FOR INQUIRIES REGARDING PAYMENT CONTACT				25B. TELEPHONE NO.		
				26A. NAME OF CONTRACTING/ORDERING OFFICER (Type)				26B. TELEPHONE NO.		
				26C. SIGNATURE						
GENERAL SERVICES ADMINISTRATION				1. PAYING OFFICE				GSA FORM 300 (REV. 2/93)		